

Licensing Committee

A meeting of the Licensing Committee was held on Tuesday, 25th April 2006.

Present: Councillor Mrs Nelson (Chairman), Councillors Coombs, Dixon, Johnson, Kirton, Leckonby, Leonard, Narroway, Rix, Roberts, Salt and Woodhouse.

Officers: P K Bell, J Nertney (LD); M Vaines, S Forsythe, S Mills (DNS).

Apologies for absence were submitted on behalf of Councillors Mrs Trainer, Mrs Wade and Woodhead.

89 Application for Increase – Hackney Carriage of Fares

Consideration was given to a report which detailed a request for variations to the existing table of fares.

Under the provisions of Section 65 of The Local Government (Miscellaneous Provisions) Act 1976 the District Council has power to fix maximum fares for hackney carriages.

The current table of fares, a copy of which was attached to the report, was agreed at the meeting held on 17 August 2004.

A copy of Minute 403, which refers was attached to the report.

A request had been received from Stockton Driver's Association requesting consideration be given to a proposed increase in the tariff. A copy of their letter was attached to the report.

The Association felt it would be a better idea to extend the times when tariff 2 can be charged rather than request a blanket increase in the mileage rate. They proposed that tariff 2 commence at 23.00 hours instead of midnight and that it continue up until 7.00 am and not 6.00 am, before returning back to tariff 1.

A newsletter was sent to all taxi drivers and proprietors asking for their comments on these proposals, and one letter from Mr Dixon suggesting a further amendment to the original proposal was received. A copy of the letter was attached to the report.

Mr M Strange (Chairman of Stockton Drivers Association) and Mr D Walker (Secretary of Stockton Drivers Association) were in attendance at the meeting and were given the opportunity to outline their case.

Members felt that a better increase would be a blanket increase in Tariff 2. Members requested that Mr Strange and Mr Walker take this view back to the Stockton Drivers Association and then let the Committee know their views.

RESOLVED that the request be deferred until the views on a blanket increase on Tariff 2 are received from the Stockton Drivers Association.

90 Exclusion of the Public

RESOLVED that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 13 of Part 1 of Schedule 12A of the Act.

91 Private Hire Driver NO. 098 Mr S B

Consideration was given report on a Private Hire Driver who had allegedly used Threatening and Abusive Behaviour towards a member of the public who when interviewed denies the allegation.

Mr S B is a licensed Private Hire driver. He was first licensed on 10th January 2005, his current license would expire on 31st January 2007.

On 20th January 2006 the Licensing Unit received a Complaint from a Mrs C regarding Mr S B turning up on her doorstep demanding money for a £5 fare from the previous night. The details of what Mrs C said took place on the doorstep was contained within the report. This she said was all within earshot of her two year old grandson.

Mrs C on speaking to the driver ascertained that he was at the wrong address, and that the address he required was Parliament Walk not Parliament Road and advised him of this accordingly.

Mr S B returned to the address of Mrs C a short while later saying he was sorry that he made a mistake and it was not her. Mrs C then threatened to contact the police; on hearing this Mr S B got into his vehicle and drove away.

A copy of the complainant's statement was attached to the report.

On the 1st February 2006 Mr S B was formally interviewed by Licensing Officer's in regard to the above matter, also present was Mr F the Operator of Tees Valley Cabs. A copy of the record of interview was attached to the report.

Members were advised that there was no history of previous complaints against Mr S B.

Members are reminded that under the provisions of Section 61 (1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 the Council may suspend or revoke or refuse to renew the licence of a hackney carriage and/or private hire driver on the following grounds: -

That he has since the grant of a licence:-

- (i) been convicted of an offence involving dishonesty, indecency or violence;
or
- (ii) been convicted of an offence under or fails to comply with the provisions of the Act of 1847 or of this part of this Act;

any other reasonable cause.

Mr S B, Mr A Ross (Solicitor acting on behalf of Mr SB) and Mrs C were in attendance at the meeting and were given the opportunity to state their case.

The Committee noted that Mr S B denied swearing at Mrs C. After considering all of the evidence and representations made the Committee found on the balance of probabilities that Mr S B had used the language and behaviour as detailed in Mrs C's witness statement. In summary Members agreed that Mr S B

had been verbally abusive and aggressive to an entirely innocent member of the public who stated that she had felt uneasy and feared for her safety. The Committee found that this behaviour was in breach of Mr S B's driver licence conditions which state that drivers must behave in a civil and orderly manner at all times.

The Committee had regard and gave Mr S B credit for his remorse for the incident and the fact that Mr S B had returned to Mrs C's house and apologised.

However the Licensing Committee felt that these issues were a reasonable cause to warrant the suspension of Mr S B's Private Hire Drivers Licence for four weeks, under Section 61 (1)(a)(iii) of the Local Government (Miscellaneous Provisions) Act 1976.

RESOLVED that Private Hire Driver NO.098 Mr S B has his Private Hire Drivers Licence suspended for 4 weeks as Members accepted Mrs C's version of events. Mr S B was threatening and verbally abusive towards an innocent Member of the public. This was deemed not the fit and proper behaviour for a licensed driver

92 Private Hire Driver – Mr M S

Consideration was given to a report on a Private Hire Driver who had a conviction imposed on him for illegally plying for hire contrary to section 45 of the Town Police Clauses Act 1847, and using a vehicle uninsured against third party risks contrary to the Section 143 Road Traffic Act 1988 which had resulted in a 6 month driving disqualification.

Mr M S was a licensed private hire driver and had been since 1994. His current licence would expire in February 2007.

Legal proceedings were instituted against Mr M S on 4 April 2006 following an enforcement operation undertaken by Officers in September 2005.

Mr M S pleaded guilty at Teesside Magistrates Court on 4th April 2006 for illegally plying for hire contrary to section 45 of the Town Police Clauses Act 1847 and using a vehicle uninsured against third party risks contrary to the Section 143 Road Traffic Act 1988.

Mr M S was fined £50 for each offence (£100 in total) with 6 penalty points for the no insurance offence resulting in 6 months disqualification. He was also ordered to pay £250 towards costs.

Members were also advised that Mr M S was prosecuted on 26 January 1998 for the same offence under section 45 of the Town Police Clauses Act 1847, i.e. illegally plying for hire. He was fined £250 and ordered to pay £150 costs.

Member were respectfully reminded that under the provisions of Section 61(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 the Council may suspend or revoke or refuse to renew the licence of a hackney carriage and/or private hire driver on the following grounds: -

(a) That he has since the grant of the Licence: -

(i) Been convicted of an offence involving dishonesty, indecency or Violence; or

(ii) Been convicted of an offence under or fails to comply the provisions of the Act of 1847 or of this part of this Act; or

(b) Any other reasonable cause.

Mr M S was in attendance at the meeting and was given the opportunity to outline his case.

RESOLVED that Mr M S has his Private Hire Driver Licence revoked because of the convictions he had received in Teesside Magistrates Court. This was deemed not the fit and proper behaviour for a licensed driver.

93 Application for Grant of Private Hire Driver Licence – Mr P W O

Consideration was given to a report on an application for a licence to drive private hire vehicles from an applicant who has had his previous licence revoked by this Committee.

An application had been received from Mr P W O for the grant of a Private Hire Drivers Licence. A copy of this application was attached to the report.

Mr P W O had completed a Criminal Record Bureau check and this showed various convictions for dishonesty and violence but no additional convictions since he last held a private hire driver's licence in 1999. A copy of the disclosure was available at the meeting.

Mr P W O had submitted a clean driving licence.

Members were reminded that Mr P W O was previously licensed from November 1995 up until 16 November 1999, when this Committee revoked his licence, for receiving a further conviction for handling stolen goods. At that time Members also suggested that he should demonstrate a period of at least three years free from further conviction before submitting any future applications which would be determined by this committee. A copy of Minute 1691, 16 November 1999, which refers, was attached to the report.

Mr P W O appealed against this decision in the Teesside Magistrates Court when the decision was upheld on 3 March 2000.

A copy of the Council's guidelines on the Relevance of Convictions was attached to the report for Members information.

Members were reminded that under the provisions of Section 51(1)(a) of The Local Government (Miscellaneous Provisions) Act 1976 the Council is instructed not to grant a licence to drive private hire vehicles unless they are satisfied that the applicant is a fit and proper person to hold such a licence.

Mr P W O was in attendance at the meeting and was given the opportunity to outline his case.

Members felt that as Mr P W O had demonstrated a period of 6 years free of conviction then his application should be granted.

RESOLVED that Mr P W O's application for a Private Hire Drivers Licence be granted with a letter placed on his file warning him about his future conduct. .

94 Application for Grant of a Private Hire Drivers Licence – Mr A J D

Consideration was given to a report on an application for a licence to drive private hire vehicles from an applicant who has had his previous licence revoked by this Committee and a previous application refused by this Committee.

An application had been received from Mr A J D for the grant of a Private Hire Drivers Licence. A copy of this application was attached to the report.

A copy of Mr A J D's driving licence which showed two previous motoring convictions was attached to the report.

A copy of a supporting letter from Mr A J D was attached to the report.

Mr A J D had yet to undertake the medical and DSA driving test as required for this application because of the expense involved. He would be requested to undertake these elements if he was found to be a suitable applicant.

Mr A J D had completed a Criminal Record Bureau check and this showed no additional convictions since he last held a private hire driver's licence. A copy of the disclosure was available at the meeting.

Members were reminded that Mr A J D was previously licensed up until 28 January 2003, when this Committee revoked his licence, in his absence, for failing to notify the Council of motoring convictions. A copy of Minute 1043, which refers was attached to the report.

Mr A J D appealed against this decision in the Teesside Magistrates Court when the decision was upheld.

Mr A J D then made a fresh application for the grant of a licence and this was considered at the meeting held on 17 August 2004 when the application was refused on the grounds that he was not deemed to be "a fit and proper person." A copy of Minute 407, which refers was attached to the report.

A copy of the Council's guidelines on the Relevance of Convictions was attached to the report 6 for Members information.

Members were reminded that under the provisions of Section 51(1)(a) of The Local Government (Miscellaneous Provisions) Act 1976 the Council is instructed not to grant a licence to drive private hire vehicles unless they are satisfied that the applicant is a fit and proper person to hold such a licence.

Mr A J D was in attendance at the meeting and was given the opportunity to outline his case.

Members felt that in line with the Council's guidelines on the Relevance of Convictions Mr A J D's application should be granted.

RESOLVED that Mr A J D's application for a Private Hire Drivers Licence be granted with a letter placed on his file warning him about his future conduct.

95 Private Hire Driver – Mr G T

Consideration was given to a report on an application for the renewal of a private hire driver's licence and an application for the grant of a private hire operator's licence from a driver who failed to declare motoring convictions which resulted a 3 month driving ban.

It was noted that Mr G T had been licensed as a Private Hire Driver with this authority since 16th March 2005. The Committee noted that as part of the procedure for obtaining a licence the section required him to complete a Criminal Record Bureau check which detailed any previous cautions or convictions. It was noted that licensing officers had been concerned that Mr G T had a record of previous convictions including obstructing a police officer. Officers therefore deemed it necessary to interview Mr G T about his CRB check and a formal interview took place on 1st March 2005. After giving due consideration to the facts Mr G T was licensed but given a warning as to his future conduct. Mr G T was issued with a written warning on 21st March 2005 which stated that "if any similar incidents were to be brought to the attention of the Licensing Authority this could call into question your fitness to hold a Private Hire Licence and we would have no hesitation to put you in front of the Licensing Committee to see if you are a fit and proper person..."

When Mr G T applied to renew his licence on 14th February 2006 it was noted that he had declared on his form that he had been convicted on 23rd March 2005 of using a vehicle uninsured against third party risks – the Magistrates disqualified Mr G T for six months which was reduced to three months on appeal to the Crown Court. On 23rd March 2005 Mr G T was also convicted of driving otherwise in accordance with a licence, no separate penalty was imposed. It was noted that the offences which Mr G T committed took place while he was driving school children on a 'school run', this was deemed to be an aggravating factor by the Committee. The Private Hire Drivers Licence conditions state that Mr G T "shall within seven days disclose to the Council in writing details of any convictions (including motoring convictions or otherwise) imposed on him during the period of the licence". Mr G T failed to notify the Council in breach of this condition. It was noted that Mr G T would have been provided with a copy of these conditions when licensed on or around 16th March 2005.

On noting that Mr G T had breached his licence conditions and given the seriousness of the convictions, Licensing Officers wrote to Mr G T inviting him into the office for interview. When contacted Mr G T was obstructive and uncooperative with Mr Simon Mills, Licensing Officer. On 23rd March 2006 Mr G T also spoke to Mr Craig Barnes, Licensing Officer, on the telephone and during this conversation stated that "Simon should be very careful as he was upsetting a lot of people and was going to end up on his back". Mr Barnes took this to be a threat against his colleague and on ending the conversation he made a contemporaneous file note.

The Committee had regard to Mr G T's mitigation which included the fact that he thought the offences had nothing to do with the Council. When he had undertaken the school run he was of the view that Social Services were fully aware. Mr G T also stated that he had not threatened Mr Mills in his telephone call with Mr Barnes. Mr G T's recollection was that he had informed Mr Barnes that persons had told him that Mr Mills would end up on his back i.e. Mr G T was repeating what other people had told him.

The Committee noted that Mr G T blamed everyone else but himself for any past offences or convictions. He had stated that the offence of obstructing a Police Officer was the fault of the Police Officer and not him and that the Officer had been required to leave the force. The prosecutions by VOSA were as a result of alleged 'loop holes' and that he should not have been prosecuted for the offence. He stated that he had not threatened Simon Mills and Mr Barnes, Licensing Officer, had misconstrued the conversation. Mr G T did not seem to take any responsibility for his past behaviour.

The Committee noted that when giving consideration to whether to suspend or revoke Mr G T licence they had to have a "reasonable cause". It was also noted that in order for a driver to be licensed they must be deemed to be a "fit and proper person".

After giving due consideration to all of the evidence the Committee found the following facts on the balance of probabilities:-

- When licensed in March 2005 Mr G T had been given a warning as to his future conduct.
- Mr G T had been convicted of serious driving offences on 23rd March 2005, namely driving without insurance which resulted in a three month driving disqualification and not in accordance with a licence for which no separate penalty was awarded.
- Mr G T had knowingly failed to inform the Council of receiving these driving convictions in clear breach of his driver licence condition number 12.
- Mr G T had made a verbal threat towards Mr Simon Mills in his telephone conversation with Craig Barnes on 23rd March 2006. Notwithstanding Mr G T's explanation for this Mr Barnes perceived the comment to be a threat against his colleague. Mr G T's aggressive attitude towards Licensing Officers and the perceived threat were also deemed to be in breach of Mr G T's driver licence conditions namely condition 1(e) that "at all times" he should "...behave in a civil and orderly manner".

RESOLVED that:-

1. Mr G T was not a fit and proper person to hold a Private Hire drivers licence and deemed their findings to be a 'reasonable cause' to revoke Mr G T's Licence under Section 61(1)(b)
2. Members also considered the above issues and their findings in relation to Mr G T's application for a Private Hire Operators Licence. Members noted that under the Local Government (Miscellaneous Provisions) Act 1976 Section 55(1) a person should not be granted a licence unless they are deemed to be "a fit and proper person" to hold such a licence. In view of their findings above Members were of the view that Mr G T was not a fit and proper person to hold a Private Hire Operators Licence and his application was refused.